

1 The Honorable Robert S. Lasnik  
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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 STATE OF WASHINGTON,

11 Plaintiff,

12 v.  
13 U.S. NATIONAL ARCHIVES AND  
14 RECORDS ADMINISTRATION, an agency of  
15 the United States of America,

16 Defendant.

Case No. 2:20-cv-1232-RSL

ANSWER

17 COMES NOW, Defendant United States National Archives and Records Administration  
18 (“NARA”) by and through Brian T. Moran, United States Attorney, Western District of  
19 Washington, and Katie D. Fairchild, Assistant United States Attorney for said District, and hereby  
20 answers Plaintiff’s Complaint, Dkt. 1, as follows:

21 In response to the numbered paragraphs of the Complaint, NARA admits, denies, or  
22 otherwise answers as follows:

23 I. INTRODUCTION

24 1. The allegations in Paragraph 1 sets forth Plaintiff’s characterization of this action,  
25 to which no response is required. To the extent that a response is deemed necessary, NARA  
26 admits that the action is brought pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C.  
27

1 § 552 and that Plaintiff requested agency records. The FOIA statute speaks for itself and NARA  
2 denies any characterization of FOIA inconsistent with the language of the statute.

3 2. NARA admits that the National Archives at Seattle facility is located at 6125 Sand  
4 Point Way NE, Seattle, WA 98115. The remaining allegations in Paragraph 2 consist of  
5 allegations that are immaterial to this FOIA action, provide no claim for relief under FOIA, nor  
6 support a claim to which a response is required. To the extent that a response is deemed necessary,  
7 NARA states that the FOIA statute speaks for itself and denies any characterization of FOIA  
8 inconsistent with the language of the statute.

9 3. NARA admits the first sentence of Paragraph 3. The remaining allegations in  
10 Paragraph 3 consist of Plaintiff's characterization of NARA's holdings at its Seattle facility and  
11 Plaintiff's characterization as to who uses the Seattle facility and the frequency with which it is  
12 used. These allegations are immaterial to this FOIA action, provide no claim for relief under  
13 FOIA, nor support a claim to which a response is required. To the extent that a response is deemed necessary,  
14 NARA states that the FOIA statute speaks for itself and denies any characterization of  
15 FOIA inconsistent with the language of the statute.

16 4. The allegations in paragraph 4 consist of Plaintiff's characterizations of the PBRB  
17 Report, which are immaterial to this FOIA action, provide no claim for relief under FOIA, nor  
18 support a claim to which a response is required. To the extent that a response is deemed necessary,  
19 NARA states that the FOIA statute speaks for itself and denies any characterization of FOIA  
20 inconsistent with the language of the statute.

21 5. The allegations in paragraph 5 consist of Plaintiff's characterizations of the actions  
22 of other entities, which are immaterial to this FOIA action, provide no claim for relief under FOIA,  
23 nor support a claim to which a response is required. To the extent that a response is deemed necessary,  
24 NARA states that the FOIA statute speaks for itself and denies any characterization of  
25 FOIA inconsistent with the language of the statute.

26 6. The allegations in paragraph 6 consist of Plaintiff's characterizations of the PBRB  
27 Report, which are immaterial to this FOIA action, provide no claim for relief under FOIA, nor

1 support a claim to which a response is required. To the extent that a response is deemed necessary,  
2 NARA states that the FOIA statute speaks for itself and denies any characterization of FOIA  
3 inconsistent with the language of the statute. NARA further answers that the PBRB report speaks  
4 for itself and denies any characterization of it inconsistent with its contents.

5 7. NARA admits it received a FOIA request, dated February 3, 2020, from Plaintiff  
6 via electronic mail.

7 8. The allegations in Paragraph 8 contain Plaintiff's characterization of its FOIA  
8 request, the content of which speaks for itself, and to which no response is required. NARA  
9 respectfully refers the Court to Plaintiff's FOIA request for a complete and accurate statement of  
10 its contents and denies any characterization inconsistent with the language of Plaintiff's FOIA  
11 request.

12 9. To the extent that the allegations in Paragraph 9 purport to characterize a  
13 communication from NARA to Plaintiff, NARA answers that the contents of any written  
14 communication received from NARA speak for themselves, and NARA denies any  
15 characterization inconsistent with the language of that communication. NARA is without  
16 sufficient information at this time to know when Plaintiff received the communication described  
17 in Paragraph 9 and therefore denies those allegations at this time.

18 10. Denied. By way of further answer, NARA states that at least two email  
19 communications were sent to Plaintiff acknowledging its FOIA request, the contents of which  
20 speak for themselves.

21 11. The allegations in Paragraph 11 sets forth Plaintiff's characterization of this action,  
22 to which no response is required. These allegations are immaterial to this FOIA action, provide  
23 no claim for relief under FOIA, nor support a claim to which a response is required. To the extent  
24 that a response is deemed necessary, NARA states that the FOIA statute speaks for itself and  
25 denies any characterization of FOIA inconsistent with the language of the statute.

26 II. JURISDICTION AND VENUE  
27

12. Paragraph 12 contains conclusions of law to which no response is required. To the extent that a response is deemed necessary, NARA states that the cited authority speaks for itself, and puts Plaintiff to its proof.

13. Paragraph 13 contains conclusions of law to which no response is required. To the extent that a response is deemed necessary, NARA states that the cited authority speaks for itself, and puts Plaintiff to its proof.

14. Paragraph 14 consists of legal conclusions to which no response is required. To the extent that a response is deemed necessary, NARA states that the FOIA statute speaks for itself and denies any characterization of FOIA inconsistent with the language of the statute.

### III. PARTIES

15. NARA currently is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 15 and therefore denies them at this time.

16. With regard to the first sentence, NARA admits that it is an agency within the United States government subject to FOIA. The remaining allegations of Paragraph 16 consist of conclusions of law or a characterization of Plaintiff's FOIA request to which no further response is required. To the extent that a further response is deemed necessary, NARA states that the FOIA statute speaks for itself and denies any characterization of FOIA inconsistent with the language of the statute and that Plaintiff's FOIA request speaks for itself.

#### IV. STATUTORY BACKGROUND

17. Paragraph 17 consists of legal conclusions to which no response is required. To the extent that a response is deemed necessary, NARA states that the FOIA statute speaks for itself and denies any characterization of FOIA inconsistent with the language of the statute.

18. Paragraph 18 consists of legal conclusions to which no response is required. To the extent that a response is deemed necessary, NARA states that the FOIA statute speaks for itself and denies any characterization of FOIA inconsistent with the language of the statute.

19. Paragraph 19 consists of legal conclusions to which no response is required. To the extent that a response is deemed necessary, NARA states that the FOIA statute speaks for

1 itself and denies any characterization of FOIA inconsistent with the language of the statute.

2 20. Paragraph 20 consists of legal conclusions to which no response is required. To  
3 the extent that a response is deemed necessary, NARA states that the FOIA statute speaks for  
4 itself and denies any characterization of FOIA inconsistent with the language of the statute.

5 V. STATEMENT OF FACTS

6 21. NARA admits it received a FOIA request, dated February 3, 2020, from Plaintiff  
7 via electronic mail.

8 22. The allegations in Paragraph 22 contain Plaintiff's characterization of its FOIA  
9 request, the content of which speaks for itself, and to which no response is required. NARA  
10 respectfully refers the Court to Plaintiff's FOIA request for a complete and accurate statement of  
11 its contents and denies any characterization inconsistent with the language of Plaintiff's FOIA  
12 request.

13 23. To the extent that the allegations in Paragraph 23 purport to characterize a  
14 communication from NARA to Plaintiff, NARA answers that the contents of any written  
15 communication received from NARA speak for themselves, and NARA denies any  
16 characterization inconsistent with the language of that communication. NARA is without  
17 sufficient information at this time to know when Plaintiff received the communication described  
18 in Paragraph 23 and therefore denies those allegations at this time.

19 24. Paragraph 24 consists of legal conclusions to which no response is required. To  
20 the extent that a response is deemed necessary, NARA states that the FOIA statute speaks for  
21 itself and denies any characterization of FOIA inconsistent with the language of the statute.

22 25. Denied. By way of further answer, NARA states that at least two email  
23 communications were sent to Plaintiff acknowledging its FOIA request, the contents of which  
24 speak for themselves.

25 32. Paragraph 32<sup>1</sup> consists of legal conclusions to which no response is required. To

26 \_\_\_\_\_  
27 <sup>1</sup> Plaintiff's numbering appears to have an error. NARA's numbering follows the numbering in Plaintiff's  
Complaint, Dkt. 1.

1 the extent that a response is deemed necessary, NARA states that the FOIA statute speaks for  
2 itself and denies any characterization of FOIA inconsistent with the language of the statute.

3 VI. FIRST CLAIM FOR RELIEF

4 Violation of the Freedom of Information Act – Failure to Respond

5 U.S.C §§ 552(a)(3), (a)(4)(B)

6 34. Paragraph 34 purports to reallege and incorporate all preceding paragraphs and  
therefore no response is required. To the extent a response is required, the NARA reasserts its  
7 response to all preceding paragraphs.

8 35. Paragraph 35 consists of legal conclusions to which no response is required. To  
9 the extent that a response is deemed necessary, NARA states that the FOIA statute speaks for  
10 itself and denies any characterization of FOIA inconsistent with the language of the statute.

11 VII. SECOND CLAIM FOR RELIEF

12 Violation of the Freedom of Information Act—Failure to Produce Records

13 5 U.S.C §§ 552(a)(3), (a)(4)(B)

14 36. Paragraph 36 purports to reallege and incorporate all preceding paragraphs and  
therefore no response is required. To the extent a response is required, NARA reasserts its  
15 response to all preceding paragraphs.

16 37. Paragraph 37 consists of legal conclusions to which no response is required. To  
17 the extent that a response is deemed necessary, NARA states that the FOIA statute speaks for  
18 itself and denies any characterization of FOIA inconsistent with the language of the statute.

19 VIII. PRAYER FOR RELIEF

20 The remainder of Plaintiff's Complaint sets for Plaintiff's prayer for relief, to which no  
21 response is required. To the extent that a response may be deemed necessary, NARA states that  
22 Plaintiff is not entitled to the requested relief.

23 **GENERAL DENIAL**

24 Pursuant to Rule 8(b)(3) NARA denies all allegations in the Complaint which it has not  
25 otherwise specifically admitted or denied herein.

26 **DEFENSES**

27 1. As to some or all of the claims asserted in this action, Plaintiff has failed to state a claim

1 upon which relief may be granted under FOIA.

2 2. As to some or all of the claims asserted in this action, Plaintiff has failed to exhaust  
3 administrative agencies as required by FOIA.

4 3. Plaintiff has not established a right to attorney's fees.

5 4. To the extent that the Complaint refers to or quotes from external documents or other  
6 sources, NARA's answer may refer to these materials; however NARA's references are not  
7 intended to be, nor should they be construed to be, and admission that the materials cited in  
8 Plaintiff's Complaint are: (a) correctly cited or quoted by Plaintiff; (b) relevant to this or any  
9 other action; or (c) admissible in this, or any other action.

10 5. NARA reserves the right to amend, supplement, and assert additional affirmative defenses.

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14 DATED this 17th day of September, 2020.

15 Respectfully submitted,

16 BRIAN T. MORAN  
17 United States Attorney

18 s/Katie D. Fairchild  
19 KATIE D. FAIRCHILD, WSBA #47712  
20 Assistant United States Attorney  
21 United States Attorney's Office  
22 700 Stewart Street, Suite 5220  
23 Seattle, Washington 98101-1271  
24 Phone: 206-553-4358  
25 Fax: 206-553-4067  
26 Email: [katie.fairchild@usdoj.gov](mailto:katie.fairchild@usdoj.gov)

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28 *Attorney for Defendant*